

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

In the Matter of:

Federal-State Joint Board on  
Universal Service

CC Docket No. 96-45

Petition of the Minnesota Public Utilities Commission  
for Agreement With Changes in Definition of Service  
Areas for Exchanges Served by CenturyTel, Citizens  
Telecommunications Company, Frontier  
Communications of Minnesota, Inc., Mid-State  
Telephone Company, Scott-Rice Telephone,  
United Tel Co of Minnesota (UTC of Minnesota),  
Federated Telephone Company, Melrose Telephone  
Company, Winsted Telephone Company (TDS  
Telecom), Eckles Telephone Company (Blue Earth  
Valley Telephone Company), Lakedale Telephone  
Company, and Farmers Mutual Telephone Company.

DA 03-2641

**SUPPLEMENTAL COMMENTS OF THE  
MINNESOTA PUBLIC UTILITIES COMMISSION**

The Minnesota Public Utilities Commission (“MPUC”) submits these supplemental comments in response to the Federal Communications Commission’s (“FCC”) Public Notice (“Notice”) released April 12, 2004. The Notice invites parties to “update the record” pertaining to pending petitions for a party’s designation as an eligible telecommunications carriers (“ETCs”), filed pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (“the Act”). *See* 47 U.S.C. § 214(e)(6).

The MPUC held a noticed, public Special Meeting concerning this matter on May 11, 2004. Various interested parties appeared to express their comments concerning the subjects addressed by the Notice. The MPUC concludes that it need not alter its original order granting Midwest Wireless Communications, LLC (“Midwest Wireless”), ETC status throughout its entire licensed area as a commercial mobile radio service (“CMRS”) carrier. Specifically, the MPUC refrains from

changing its previous decision approving service area redefinition of twelve rural Minnesota carriers, including redefinition at the sub-wire center level.

Even before the FCC's issuance of *In the Matter of Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, (“*Virginia Cellular*”) the MPUC historically has, (and likewise did so in this matter,) conducted a rigorous public interest analysis for ETC designations pursuant to its authority to apply additional state criteria as recognized in *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999). The MPUC stands on its order concluding that it is in the public interest to grant ETC status for Midwest Wireless.

The MPUC acknowledges that *In the Matter of Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket 96-45, Memorandum Opinion and Order, FCC 04-37 (April 12, 2004)(“*Highland Cellular*”), the FCC did not grant a request for redefinition below the wire center level under the facts of that case. The MPUC does not understand the *Highland Cellular* decision to institute an absolute ban on redefinition below the wire center level. The FCC noted that consumers in rural areas are more vulnerable to carriers relinquishing ETC designation. *Highland Cellular*, ¶33. In this case, there is no evidence that any party will be relinquishing ETC status as a result of the redefinition. For reasons already expressed in its original order and in its earlier comments to the FCC, the MPUC concludes that redefinition below the wire center level is appropriate and in the public interest in this case.

As it relates to both *Virginia Cellular* and *Highland Cellular*, the MPUC acknowledges that the FCC reviewed population density data concerning requests to redefine service areas along wire center boundaries. The FCC concluded in *Virginia Cellular* there was evidence of a “great disparity in [population] density” between wire centers inside and outside of the CMRS provider’s service

area. *Virginia Cellular*, ¶35. In *Highland Cellular* the FCC noted that the CMRS provider would be “primarily serving customers in the low-cost and high-density portion” of the LEC’s study area. *Highland Cellular*, ¶31. Moreover, in *Highland Cellular* the LEC’s study area included wire centers with “highly variable population densities, and therefore highly variable cost characteristics, [thus] disaggregation may be a less viable alternative for reducing creamskimming opportunities.” *Highland Cellular*, ¶32. In this case, however, there is not credible evidence of widely disparate population densities, nor of wire centers with highly variable population densities such that disaggregation would not be practical or effective. Indeed, the MPUC’s order expressly addressed this matter, concluding that disaggregation would reduce any opportunity for creamskimming under the facts of this case. (MPUC Petition, Att. 1 at p. 14). Moreover, many Minnesota telephone companies, including Citizens and Frontier, have already elected to disaggregate their own service areas to the exchange level for universal service purposes, and to subdivide exchanges into cost zones. *Id.*

The MPUC stands on its original order and its petition seeking agreement to redefine the service areas as indicated in the MPUC’s earlier submissions in this docket. Given the extensive record developed through a contested case proceeding, the MPUC concludes there is no legitimate concern of creamskimming presented under the facts of this case.

## CONCLUSION

The MPUC requests FCC agreement to redefine the service areas for the relevant companies in Minnesota as requested by its petition, as clarified in its reply comments, and as maintained in these supplemental comments.

Dated: May 14, 2004

Respectfully submitted,

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